

REFERENCE TITLE: **law enforcement merit system council**

State of Arizona
Senate
Forty-eighth Legislature
First Regular Session
2007

SB 1105

Introduced by
Senators Verschoor, Miranda: Waring

AN ACT

AMENDING SECTIONS 38-1001 AND 38-1003, ARIZONA REVISED STATUTES; RELATING TO THE LAW ENFORCEMENT MERIT SYSTEM COUNCIL.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 38-1001, Arizona Revised Statutes, is amended to
3 read:

4 38-1001. Definitions

5 In this chapter, unless the context otherwise requires:

6 1. "Council" means the merit system council for law enforcement
7 officers appointed under ~~the provisions of~~ this article.

8 2. "Department" means the branch of government in which a law
9 enforcement officer is employed.

10 3. "Department head" means the officer charged with the duty of
11 administering the branch of government having the jurisdiction over the law
12 enforcement officer.

13 4. "GOOD CAUSE" MEANS:

14 (a) ANY DISCIPLINE IMPOSED WAS REASONABLY RELATED TO THE EFFICIENT AND
15 SAFE OPERATION OF THE DEPARTMENT.

16 (b) THE DEPARTMENT HEAD INVESTIGATED THE CONDUCT BEFORE ADMINISTERING
17 THE DISCIPLINE.

18 (c) THE INVESTIGATION WAS FAIR AND OBJECTIVE.

19 (d) THE INVESTIGATION PRODUCED SUBSTANTIAL EVIDENCE OF MISCONDUCT.

20 (e) THE RULES, ORDERS AND PENALTIES IMPOSED WERE APPLIED EVENHANDEDLY.

21 (f) THE PENALTY IMPOSED WAS NOT EXCESSIVE AND WAS REASONABLY RELATED
22 TO THE SERIOUSNESS OF THE OFFENSE AND THE LAW ENFORCEMENT OFFICER'S PAST
23 RECORD.

24 4. 5. "Law enforcement officer" means:

25 (a) A regularly appointed and paid deputy sheriff of a county.

26 (b) A regularly employed police officer in a city or town.

27 Sec. 2. Section 38-1003, Arizona Revised Statutes, is amended to read:

28 38-1003. Powers and duties of council

29 The council, pursuant to recognized merit system principles of public
30 employment, shall ~~from time to time~~:

31 1. Classify or reclassify all positions occupied by law enforcement
32 officers within the branch of government employing the officer and recommend
33 schedules of salary and other compensation payable for the officer
34 classification.

35 2. Fix and refix standards and qualifications of all positions so
36 classified.

37 3. Provide a plan for fair and impartial selection, appointment,
38 retention and separation or removal from service by resignation or dismissal
39 of all classified law enforcement officers. ~~The provisions of~~ Paragraph 4
40 ~~shall apply~~ OF THIS SECTION APPLIES to appointments.

41 4. Provide a plan for promotion of law enforcement officers ~~which~~
42 ~~shall give~~ THAT GIVES appropriate consideration to qualifications, record of
43 performance, seniority and conduct within the field of law enforcement.
44 Vacancies within a department shall be filled whenever possible by promotion
45 within a department and shall be on the basis of competitive examination. If

1 a vacancy occurs within a department the council, ~~upon~~ ON request, shall
2 certify to the head of the department the names of five officers in the order
3 of their relative excellence in the competitive examination from which
4 certified list the appointment or promotion may be made.

5 5. Adopt rules necessary for the orderly administration of ~~the~~
6 ~~provisions of~~ this article.

7 6. Hear and review appeals from any order of the department head in
8 connection with THE suspension, demotion or dismissal of a classified law
9 enforcement officer AND REVERSE THE DEPARTMENT HEAD'S ACTION IF GOOD CAUSE
10 DOES NOT EXIST FOR THE SUSPENSION, DEMOTION OR DISMISSAL. If the order of
11 the department head was for a suspension greater than sixteen hours, demotion
12 or dismissal and the council exonerates the officer, the council may award,
13 in whole or in part, the reasonable costs and attorney fees that the law
14 enforcement officer incurred or were incurred on behalf of the law
15 enforcement officer in connection with the appeal. The award of attorney
16 fees by the council shall not exceed ten thousand dollars. An award of
17 attorney fees does not apply if either of the following applies:

18 (a) The order of the department head was not for disciplinary purposes
19 but was for administrative purposes such as a reduction in force.

20 (b) The disciplinary action related to off-duty activities unrelated
21 to the required duties of the law enforcement officer. The council's
22 determination shall be final except on appeal as provided in section 38-1004.
23 If the department head appeals the decision of the council, the council's
24 award of any costs or attorney fees to an officer shall be stayed pending the
25 conclusion of the appeal. If the department head's decision is upheld on
26 appeal, the award of costs or attorney fees in favor of the officer shall be
27 reversed.